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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-third session

SUMMARY RECORD OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 30 August 1991, at 3 p.m.

Chairman: Mr. JOINET

later: Mr. TURK

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The meeting was called to order at 3.10 p.m.

REVIEW OF THE WORK OF THE SUB-COMMISSION (agenda item 3) (continued)

1. Mr. SACHAR expressed his indignation at the comments made in the morning by Mr. Abram, which he considered to be an insult to the dignity of the Sub-Commission. Whereas Mr. Ballesteros, the Chairman of the Commission on Human Rights, had expressed his desire for cooperation between the Commission on Human Rights and the Sub-Commission, which he considered to be complementary bodies, Mr. Abram seemed to assign a subordinate role to the Sub-Commission, in gross contradiction to its mandate.

2. Any question within the competence of the Commission on Human Rights was directly within the competence of the Sub-Commission, and the latter could not be requested to ignore violations of human rights in individual countries. The Sub-Commission was not an abstract research body, it was interested in what actually happened in countries and, necessarily, with any violations of human rights in them.

3. Now that the Cold War was over, Mr. Abram might be disturbed to see the Sub-Commission taking an interest, for example, in racial discrimination in the United States of America or in the lifting of sanctions against South Africa by the United States. Mr. Abram was seeking to divert the Sub-Commission's attention from the realization of the economic and social rights of the most needy while the United States and its Western allies were spending billions of dollars on armaments.

4. Lastly, he protested against what he perceived as a veiled threat in Mr. Abram's comment to the effect that all the necessary resources would be made available to the Sub-Commission if it returned to its original mandate and respected the wishes of the Commission on Human Rights.

5. Mr. Türk took the Chair.

6. Mr. TREAT said that he wished to make some observations concerning the work of the Sub-Commission. The latter was a very natural target and quite a number of the reproaches made against it were well intentioned. However, although some criticisms were justified, others were unfair, whether they were criticisms of individual experts or of the Sub-Commission as a whole. The Sub-Commission should be placed in its proper context; the problems then appeared less difficult to resolve. In any case, progress had been made on all fronts. For example, while it was true that the United States of America had been slow to ratify certain international instruments, the situation had progressed more quickly in the past three years than it had done in the preceding 40 years. Moreover, the Sub-Commission's adoption of secret balloting had done much to strengthen the independence of its experts.

7. Independence was a matter which it was not always as easy to define as it seemed. It could be achieved little by little - a matter which the Sub-Commission might wish to study. The question of alternates would also merit consideration.

8. Referring to rumours that the Sub-Commission might be abolished, he expressed his attachment to the Sub-Commission and stressed its great potential in the field of human rights, even if barely one per cent of the United Nations budget was devoted to human rights activities, that potential should therefore not be wasted. In view of the difficulties facing the Sub-Commission, he suggested that it should call upon specialists in institutional dysfunction who could diagnose the difficulties with the necessary detachment. Whatever solution was adopted, the Sub-Commission should consider the matter in order to avoid being subjected to superficial and undeserved criticism.

9. The CHAIRMAN pointed out to Mr. Treat that the proportion of the United Nations budget devoted to human rights activities was 0.7 per cent.

10. Mr. AL-KHASAWNEH said that at the previous meeting he had listened with interest to the statement by Mr. Abram, the Permanent Representative of the United States of America at Geneva. Mr. Abram had said that the Sub-Commission was encroaching on the sphere of competence of other United Nations bodies, particularly the Security Council, and had deeply regretted such a development, which was, according to him, contrary to the spirit of a "unitary" United Nations. It was difficult to see what the adjective "unitary" meant, and in his opinion concern to avoid duplication should not be the main consideration.

11. Furthermore, regret had often been expressed that there was no effective international mechanism for achieving a balance between different powers. Without going so far as to consider that the Sub-Commission could play that role, he nevertheless hoped, that in the new international order different opinions could be expressed and that the Sub-Commission could take into account the consequences of certain Security Council resolutions in so far as they affected human rights and also deal with matters of humanitarian law.

12. By further stating that some members of the Sub-Commission were officials in the service of their Governments, Mr. Abram had made a simplistic and incorrect affirmation which must be rejected out of hand. During the eight years in which he himself had participated in the work of the Sub-Commission, he had found, on the contrary, that it had sometimes been difficult to interest his Government in the Sub-Commission's work. Mr. Treat had therefore been right to stress that independence was a complex issue, implying a state of mind rather than anything else. His own observations indicated that some of the members most in favour of the Sub-Commission had been from countries that had been protagonists of the Cold War.

13. Mr. EIDE said that he, too, had listened with interest to the statement made by the Permanent Representative of the United States of America at the previous meeting. It now seemed clear that the rumours about the abolition of the Sub-Commission, to which Mr. Treat had just referred, were groundless and that the Sub-Commission did not need to be on the defensive. A constructive dialogue with all Governments was possible.

14. With regard to the Sub-Commission's original mandate, he recalled that four sub-commissions had originally been envisaged. In the end only two had been established. One of them had been abolished in 1950, and the present Sub-Commission was thus the only body of experts responsible for assisting the Commission on Human Rights. Its mandate, however, had unquestionably evolved in response to needs and was no longer limited to the prevention of discrimination and the protection of minorities. The Commission, too, had evolved considerably since its establishment, when it had been responsible mainly for promoting international human rights standards. Following the adoption of the Universal Declaration of Human Rights, a large number of communications and petitions on human rights had been submitted to the United Nations, which at that time had considered itself not to be empowered to deal with them. However, in 1967 the Commission on Human Rights had adopted resolution 8 (XXIII) authorizing the Sub-Commission to deal with situations in individual countries. Consequently, the activities of the Commission and of the Sub-Commission had been reoriented as the two bodies had evolved in parallel.

15. A second stage had been reached with the creation, under international instruments, of a veritable panoply of human rights monitoring bodies and the establishment of other mechanisms associated with the Sub-Commission and the Commission, such as the Working Group on Enforced or Involuntary Disappearances or the Special Rapporteur on Summary or Arbitrary Executions.

16. On the eve of the World Conference on Human Rights the Sub-Commission was arriving at a third stage, in which all those mechanisms would be rationalized in order to remedy the structural dysfunction mentioned by Mr. Treat. The problem affected not only the Sub-Commission but also the Commission. The days when the Sub-Commission had met in a little room with only a small number of participants seemed far away.

17. It was therefore necessary to re-think the entire organization of the Sub-Commission's work. It was true that all the items on its agenda were important, but the burden was too heavy for one four-week session. The time had therefore come to stand back a little and reflect on all those matters.

18. Mr. ALFONSO MARTINEZ noted that once again the Permanent Representative of the United States of America at Geneva had made a statement at the end of a session of a United Nations body in which he had analysed its work. There would be no objection to that if the purpose was to defend not only freedom of opinion but also the right to dissent. However, the latter was increasingly threatened in the "new world order", either by intolerance or by what was claimed to be common sense, which in his view was worthless.

19. It might be true, as Mr. Abram had pointed out, that in 1991 the Sub-Commission had adopted more resolutions than at any of its previous sessions, but how could the number of resolutions adopted by the Sub-Commission be restricted? Were ideas and opinions to be silenced by deciding in advance that only a certain number of resolutions were to be adopted on any particular subject? Or was the intention to limit the Sub-Commission's capacity to act? Moreover, Mr. Abram was wrong in affirming that the responsibility for examining human rights violations in individual countries lay with the Human Rights Committee and not with the

Sub-Commission. The Human Rights Committee could, in fact, consider only the situations obtaining in States parties to the International Covenant on Civil and Political Rights whereas, by its resolution 1503 (XLVIII), the Economic and Social Council, an intergovernmental body, had given the Sub-Commission a very clear mandate in that respect.

20. Mr. Al-Khasawneh was right to question the concept of a unitary United Nations mentioned by Mr. Abram, who overlooked the fact that the United Nations, most fortunately, had been born out of diversity. Mr. Abram also seemed to divide the members of the Sub-Commission into two categories in stating that some of its members were proudly independent. Who exactly was proudly independent and who was not? When making such assertions, it was necessary to give names.

21. Finally, it was surprising to hear Mr. Abram insist that Governments should not designate their own officials as members of the Sub-Commission. The appointment of experts was the exclusive responsibility of Governments, which designated whomever they wanted to.

22. The CHAIRMAN announced that the Sub-Commission had concluded its consideration of agenda item 3, on which it had already adopted a decision.

ADOPTION OF THE REPORT ON THE FORTY-THIRD SESSION (agenda item 21)

23. Mr. GUISSE, Rapporteur, said that, as a result of the Sub-Commission's falling behind in its work and of certain technical constraints, it had not been possible to submit the whole of the report on the present session. As had been done at previous sessions, therefore, the report would be completed and approved by the Rapporteur as soon as possible and then transmitted to every member of the Sub-Commission.

24. The CHAIRMAN said that, if he heard no objection, he would take it that the Sub-Commission accepted the procedure suggested by the Rapporteur for the preparation and adoption of the report on the session.

25. It was so decided.

CLOSURE OF THE SESSION

26. After an exchange of courtesies, the CHAIRMAN declared the session closed.

The meeting rose at 4.25 p.m.